

TELEVISION SIGNAL SURVEY
WAYF CHANNEL 36
MELBOURNE, FLORIDA

TE NO. 3

TE LOCATION US 192 & I 95
Melbourne, Florida

CHANNEL NUMBER	LOCATION	TO TRANSMITTER DEGREE	MILES	SIGNAL LEVEL UV/M	TIME
2	Orlando, Florida	322	52.80	170.76	11:29 AM
6	Orlando, Florida	354	41.20	1644.13	11:31 AM
9	Orlando, Florida	354	41.20	12119.22	11:33 AM
34	Ft. Pierce, Florida	165	56.90	527.02	11:36 AM
35	Orlando, Florida	346	43.50	37688.52	11:35 AM
43	Melbourne, Florida	322	19.50	231356.06	11:37 AM
52	Cocoa, Florida	322	19.50	99812.39	11:38 AM
56	Melbourne, Florida	170	17.20	103238.41	11:40 AM

ES:

David R. Harris
INITIALS

July 2, 1986
DATE

TELEVISION SIGNAL SURVEY
WAYK CHANNEL 56
MELBOURNE, FLORIDA

NO. 6

LOCATION Wickham & Lake Washington Rd.
Harbor City Municipal Golf Course
Brevard County, Florida

CHANNEL NUMBER	LOCATION	TO TRANSMITTER DEGREE	MILES	SIGNAL LEVEL UV/M	TIME
2	Orlando, Florida	316	57.00	241.20	12:03 PM
6	Orlando, Florida	322	44.00	1465.34	12:05 PM
9	Orlando, Florida	322	44.00	7646.71	12:07 PM
34	Ft. Pierce, Florida	158	61.00	.00	12:00 PM
35	Orlando, Florida	316	42.20	18889.00	12:00 PM
43	Melbourne, Florida	310	19.00	183772.65	11:59 AM
52	Cocoa, Florida	310	19.00	99812.59	11:59 AM
56	Melbourne, Florida	178	17.20	29096.54	11:58 AM

=====

3: Hi-Voltage lines south of test site

and R. Harris
NICLAN

July 2, 1986
DATE

TELEVISION SIGNAL SURVEY
WAYNE CHANNEL 56
MELBOURNE, FLORIDA

TE NO. 7

TE LOCATION US 192 & Park Ave
Melbourne Country Club
Melbourne, Florida

CHANNEL NUMBER	LOCATION	TO TRANSMITTER DEGREE	MILES	SIGNAL LEVEL UV/M	TIME
2	Orlando, Florida	319	62.50	170.76	10:41 AM
6	Orlando, Florida	322	43.00	1163.96	10:43 AM
9	Orlando, Florida	322	43.00	7213.96	10:43 AM
34	Ft. Pierce, Florida	182	60.50	.00	10:39 AM
35	Orlando, Florida	316	47.00	9466.93	10:38 AM
43	Melbourne, Florida	313	23.20	92104.51	10:37 AM
52	Cocoa, Florida	313	23.20	31563.51	10:36 AM
56	Melbourne, Florida	186	17.00	115835.40	10:35 AM

=====

TES:

Donald R. Harris
TECHNICIAN

July 2, 1986
DATE

TELEVISION SIGNAL SURVEY
 WAYN CHANNEL 56
 MELBOURNE, FLORIDA

E NO. 8

E LOCATION US 192 on Melbourne Causeway
 East end of Causeway
 Indianalantic, Florida

CHANNEL NUMBER	LOCATION	TO TRANSMITTER DEGREE	MILES	SIGNAL LEVEL UV/M	TIME
2	Orlando, Florida	313	64.60	428.93	10:10 AM
6	Orlando, Florida	319	45.50	1383.37	10:12 AM
9	Orlando, Florida	319	45.50	6433.91	10:14 AM
34	Ft. Pierce, Florida	163	55.50	2098.09	10:15 AM
35	Orlando, Florida	314	48.80	29937.05	10:16 AM
43	Melbourne, Florida	306	25.00	366674.65	10:17 AM
52	Cocoa, Florida	306	25.00	223452.57	10:18 AM
56	Melbourne, Florida	198	18.20	145828.13	10:20 AM

=====

OB: 40' Pine trees south of test site

David R. Harris
 TECHNICIAN

July 2, 1986
 DATE

San Francisco	San Jose, CA	Ch. 36, 48, 65
Boston	Worcester, MA	Ch. 14, 27, 66
	Manchester, NH	Ch. 50, 60
	Concord, NH	Ch. 21
	New Bedford, MA	Ch. 28
	Providence, RI	Ch. 16, 64
Detroit	Port Huron, MI	Ch. 46
	Flint, MI	Ch. 66
Washington, D.C.	Manassas, VA	Ch. 66
	Fredericksburg, VA	Ch. 53, 69
Cleveland	Canton, OH	Ch. 17, 67
	Sandusky, OH	Ch. 52
	Mansfield, OH	Ch. 68
	Youngstown, OH	Ch. 21, 27, 33, 58
Houston	Bay City, TX	Ch. 43
	Conroe, TX	Ch. 49, 55
	Galveston, TX	Ch. 48
Miami - Ft. Lauderdale	Fort Pierce, FL	Ch. 21, 34
	Lake Worth, FL	Ch. 67
	Tequesta, FL	Ch. 25
	West Palm Beach, FL	Ch. 29, 61
Minneapolis - St. Paul	Redwood Falls, MN	Ch. 43
	St. Cloud, MN	Ch. 19, 25, 41
Atlanta	Athens, GA	Ch. 34

		Monroe, GA	Ch. 63
		Rome, GA	Ch. 14
Tampa - Petersburg	St.	Inverness, FL	Ch. 64
		Lakeland, FL	Ch. 32
		Sarasota, FL	Ch. 40
		Sebring, FL	Ch. 60
		Venice, FL	Ch. 62
Denver		Ft. Collins, CO	Ch. 22
Baltimore		Hagerstown, MD	Ch. 25, 68
		Red Lion, PA	Ch. 49

Total Overshadowed Communities = 55

Total Overshadowed Channels = 77

TELEVISION SIGNAL SURVEY
WAYK CHANNEL 56
MELBOURNE, FLORIDA

ITE NO. 2

ITE LOCATION Malabar Rd. & FEC Railroad
City Hall
Malabar, Florida

CHANNEL NUMBER	LOCATION	TO TRANSMITTER DEGREE	MILES	SIGNAL LEVEL μ V/M	TIME
2	Orlando, Florida	317	69.80	191.60	5:27 PM
6	Orlando, Florida	323	51.00	1037.38	5:29 PM
9	Orlando, Florida	323	51.00	3832.43	5:31 PM
34	Ft. Pierce, Florida	163	50.00	2354.10	5:26 PM
35	Orlando, Florida	319	54.00	7519.85	5:25 PM
43	Melbourne, Florida	315	29.60	24506.48	5:24 PM
52	Cocoa, Florida	315	29.60	35414.84	5:22 PM
56	Melbourne, Florida	215	12.50	73087.20	5:21 PM

TES:

Edward R. Harris
TECHNICIAN

July 1, 1986
DATE

TELEVISION SIGNAL SURVEY
WAYK CHANNEL 56
MELBOURNE, FLORIDA

ITE NO. 10

ITE LOCATION I 95 & Malabar Rd.
Malabar, Florida

CHANNEL NUMBER	LOCATION	TO TRANSMITTER DEGREE	MILES	SIGNAL LEVEL UV/M	TIME
2	Orlando, Florida	324	67.00	96.03	5:27 PM
3	Orlando, Florida	326	48.80	583.36	5:27 PM
7	Orlando, Florida	326	48.80	3224.59	5:31 PM
34	Ft. Pierce, Florida	160	50.80	2354.10	5:26 PM
35	Orlando, Florida	321	51.20	7519.85	5:25 PM
43	Melbourne, Florida	320	27.00	77496.28	5:24 PM
51	Cocoa, Florida	320	27.00	44584.65	5:22 PM
56	Melbourne, Florida	192	10.00	92011.33	5:21 PM

=====

OTES:

Leonard R. Harris
TECHNICIAN

July 1, 1986
DATE

TELEVISION SIGNAL SURVEY
WAYK CHANNEL 56
MELBOURNE, FLORIDA

ITE NO. 11
ITE LOCATION Malabar Rd & County Road 509
Palm Bay, Florida

CHANNEL NUMBER	LOCATION	TO TRANSMITTER DEGREE	MILES	SIGNAL LEVEL uV/M	TIME
2	Orlando, Florida	320	65.80	.00	4:46 P
6	Orlando, Florida	329	47.80	924.56	4:48 P
9	Orlando, Florida	329	47.80	6813.14	4:50 P
34	Ft. Pierce, Florida	153	51.50	1323.81	4:41 P
35	Orlando, Florida	323	48.00	11918.15	4:42 P
43	Melbourne, Florida	325	25.50	103342.96	4:43 P
52	Cocoa, Florida	325	25.50	29797.88	4:44 P
56	Melbourne, Florida	172	11.50	137670.63	4:45 P

NOTES:

Leonard R. Harris
TECHNICIAN

July 1, 1986
DATE

TELEVISION SIGNAL SURVEY
WAYK CHANNEL 56
MELBOURNE, FLORIDA

SITE NO. 12
SITE LOCATION I95 & SR 512
Sebastian, Florida

CHANNEL NUMBER	LOCATION	TO TRANSMITTER DEGREE	MILES	SIGNAL LEVEL UV/M	TIME
2	Orlando, Florida	324	82.00	42.89	8:30 AM
6	Orlando, Florida	331	65.00	73.44	8:52 AM
9	Orlando, Florida	331	65.00	1080.13	8:57 AM
34	Ft. Pierce, Florida	155	33.00	6634.74	9:00 AM
35	Orlando, Florida	326	67.30	.00	9:00 AM
43	Melbourne, Florida	328	43.00	3208.82	9:01 AM
52	Cocoa, Florida	328	43.00	2507.18	9:02 AM
56	Melbourne, Florida	305	8.50	82005.18	9:03 AM

=====

NOTES: 40 Pine trees to south of test site

Leonard R. Harris
TECHNICIAN

July 2, 1986
DATE

TELEVISION SIGNAL SURVEY
WAYK CHANNEL 56
MELBOURNE, FLORIDA

SITE NO. 13

SITE LOCATION SR 512 & Sebastian Elementary School
Sebastian, Florida

CHANNEL NUMBER	LOCATION	TO TRANSMITTER DEGREE	MILES	SIGNAL LEVEL uV/M	TIME
2	Orlando, Florida	320	73.80	60.59	9:23 AM
6	Orlando, Florida	326	65.00	260.58	9:25 AM
9	Orlando, Florida	326	65.00	541.35	9:27 AM
34	Ft. Pierce, Florida	167	34.50	937.18	9:21 AM
35	Orlando, Florida	320	67.20	332.36	9:22 AM
43	Melbourne, Florida	320	43.00	4616.16	9:20 AM
52	Cocoa, Florida	320	43.00	2507.18	9:19 AM
56	Melbourne, Florida	280	11.60	14582.81	9:18 AM

=====

NOTES: 40 - 50 FT Pine Trees south and west of test site

Leonard R. Harris
TECHNICIAN

July 2, 1986
DATE

TELEVISION SIGNAL SURVEY
WAYK CHANNEL 56
MELBOURNE, FLORIDA

SITE NO. 14
SITE LOCATION SR 60 & Memorial Island Dr.
Vero Beach, Florida

CHANNEL NUMBER	LOCATION	TO TRANSMITTER DEGREE	MILES	SIGNAL LEVEL UV/M	TIME
2	Orlando, Florida	320	95.50	.00	3:30 PM
6	Orlando, Florida	326	78.60	.00	3:31 PM
9	Orlando, Florida	326	78.60	341.57	3:32 PM
34	Ft. Pierce, Florida	195	22.50	26413.38	3:36 PM
35	Orlando, Florida	323	80.10	.00	3:37 PM
43	Melbourne, Florida	324	55.50	2595.86	3:38 PM
52	Cocoa, Florida	324	55.50	2234.53	3:39 PM
56	Melbourne, Florida	305	22.50	46114.90	3:40 PM

=====

NOTES:

Leonard R. Harris
TECHNICIAN

July 1, 1986
DATE

Exhibit 4

Nielson Syndication Service Preliminary
Program Audience Estimates For
Syndicated Shows - Week Ending May 24, 1987

Rank	Show	Rating/ Markets	% Coverage
1.	Wheel of Fortune	15.9/211	97
2.	Jeopardy	12.9/209	99
3.	World Wrestling Federation	9.2/204	93
4.	People's Court	8.6/194	97
5.	Entertainment Tonight	7.6/154	93
5.	Oprah Winfrey	7.6/169	96
7.	New Newlywed Game	7.2/189	97
8.	Hollywood Squares	6.2/154	92
9.	Mama's Family	5.3/157	88
10.	Wrestling Network	5.1/171	82
11.	Entertainment Tonight	4.9/160	94
12.	Hee Haw	4.9/209	89
13.	Star Search	4.8/177	94
14.	Three's Company	4.7/65	78
15.	Divorce Court	4.5/129	86
15.	Fame	4.5/139	91

Source: Broadcasting, June 8, 1987 at p. 56

THIRTY FIVE MILE RULE COMMENTS

By: Linda DesMarais
Vice Pres., Programing & News
WWSB
July 22, 1987

My name is Linda DesMarais; I am presently Vice President of Programming and News for WWSB, the ABC television affiliate in Sarasota, Florida. Previously I held Program Manager positions at WDZL (an independent television station in Miami Florida), WCIX (also a Miami independent station), the CBS affiliate station in Miami, WTVJ, and the Miami ABC affiliate, WPLG. I was Program Manager at WJLA, the ABC station in Washington, D.C. from 1976 through 1979. I have a total of nineteen years in the local television business, and for one year (1982) I operated as head of a small program syndication company. I have also served two three-year terms as a member of the Board of Directors for the National Association of Television Program Executives (NATPE).

The Thirty-Five Mile Rule is a protection for small stations adjacent to big markets. It protects the small television station from being shut out of competitive, successful programming by the big market stations. The key words here are the adjectives "competitive" and "successful".

The West Palm Beach Story

Some years ago (roughly middle and late 1970's, as I understand it), major Miami television stations tried to "discourage" syndicators from duplicating contracts (selling programs) in West Palm Beach when the programs were "hits" in Miami. West Palm at that time was a lower-ranked market than it is now, and program prices were very low--significantly lower than they are now. Miami had a vested interest in maintaining exclusive telecasts of hit shows. Many viewers in Palm Beach County received Miami stations off-air or via cable (as they do now). Having the only outlet for a "hit" meant larger audience potential for the Miami stations, a larger ratings potential and, obviously, a larger advertiser revenue potential. The big market stations frequently succeeded in keeping shows away from West Palm during those years, unless a specific station there cried "foul".

As West Palm Beach grew, its market designation rose and the local stations there grew more aggressive. The dollars paid for programs increased with the growth. Today, West Palm is a lucrative market for program distributors and major programs are, as a matter of course, sold in both Miami and

West Palm. Syndicators wouldn't dream (now) of excluding their revenues from the West Palm market.

The moral? Had the 35 mile rule not been around, program suppliers would have undoubtedly caved under Miami's big market, big pricing pressure and 1) West Palm stations would have been squeezed to death or to near coma status; 2) localism for West Palm residents would have been forfeited in terms of local news and public service (since the real "local" stations would have been forced financially to reduce locally-oriented program service) and 3) the syndicators would have sacrificed a viable, important revenue source for themselves in the long term by feeding the short term demands of the Miami stations.

Based on my seven-year residence in Miami, plus my experience as Program Manager at four Miami television stations, I can certainly attest to the fact that "local" news and issues in Dade County are vastly different from local news and issues in Palm Beach. Miami stations cannot devote enough significant coverage to the outlying county without jeopardizing the loyalty and credibility earned from the mainstream Miami audiences.

As West Palm grew and its population increased, having local television outlets with West Palm news operations became crucial.

In order to finance the news and public service efforts, West Palm stations, like all stations in America, sought high viewer appeal entertainment programs for highly saleable ratings and revenues. Had the successful "hits" been barred from West Palm by Miami stations, viewers in West Palm would have viewed the "hits" on the Miami stations and the local stations would have failed financially.

West Palm is a case history of why the 35 mile rule is critical to small market television survival, growth and public service. It is also significant that, in the long term, the rule serves the syndicators by creating and preserving more marketplaces for them.

The Sarasota Market

Having left Miami, I find myself experiencing the challenge of programming a small market station in Sarasota, Florida. Like the West Palm/Miami situation, all the Tampa stations are received in Sarasota. The Tampa stations are motivated to freeze my buying ability as much as possible. The 35 mile rule gives me my only access to attractive programs. Since my arrival at WWSB one year ago, I have had to use the 35 Mile Rule in all program buys, with the exception of one grandfathered renewal deal and one regular renewal.

Very much like West Palm in the 1970's, Sarasota is one of the top five fastest growing areas in the country. The market's appetite for localism is more intense here than anywhere in my experience. Like Miami, Tampa cannot offer even marginal "local" coverage of Sarasota news and issues without jeopardizing the loyalty and credibility earned from their mainstream counties. (Indeed, an in-house survey of Sarasota news coverage yielded only 0.84% of the total three Tampa network affiliate's local news programming combined. Moreover, the vast majority of that 0.84% was not news and issues, it was weather mentions and stories on special sporting events.)

As an aside, when Hurricane Elena swept Florida's West Coast in September 1985, Tampa hurricane coverage generally was not applicable to what was going on 40 miles south in Sarasota. Local service is critical here.

WWSB's ability to provide that local service rests with WWSB's ability to draw the local viewers to the competitive, successful syndicated programs which are the basis of a station's financial stability. If the "hits" this year are "Wheel of Fortune", "Jeopardy", "Entertainment Tonight", "Oprah Winfrey" and the like and if I can't buy them but Tampa can, my viewers will go to the "hits" and will watch Tampa. They will support Tampa's ratings and revenues, not Sarasota's. This will inevitably hamper my efforts to program for Sarasota's local problems, interests and needs.

Buying the successful shows for Sarasota isn't easy--even with the 35 Mile Rule's protection. Without it, it would be impossible. Here are some war stories.

Entertainment Tonight

In early August 1986, the sales executive for Paramount Television called me to talk about renewing "Entertainment Tonight" on WWSB for the 1986/1987 season. By August 22nd, he and I had negotiated a deal for \$750 per week (WWSB's highest program cost to date) to telecast the show somewhere between 5pm and 8pm Monday thru Friday. WWSB had been running "ET" with marginal ratings at 5pm, and I made it clear to the sales rep that all the research showed "Entertainment Tonight" as a 7-8pm success across the country and that I renewed on the basis of a plan to move it to 7pm on my station. The new contract was agreed to begin September 14th.

On September 8th, the sales executive called and said I couldn't telecast the show at 7pm because WTVT in Tampa objected. They felt it would hurt their ratings. I was furious. This left WWSB in the lurch for the new fall program schedule and jeopardized the station's financial investment in

promotion and its advance sales revenues. I educated the Paramount rep about the illegality of the WTVT request based on the 35 Mile Rule. He agreed that we could premiere the show at 7pm as planned and he would "monitor" the effect on Tampa in the November rating period. So I got a reprieve, but the threat of Tampa interference in the program contract remained.

On October 3rd, WWSB received a cease and desist telex from Paramount on the Entertainment Tonight purchase. They were "not approving" our deal. We'd been running and paying for the show since September 14th with full acceptance granted by their sales executive. We thought we had a firm deal because under the standard industry practices, deals are confirmed on a regular and routine basis for companies through their salespeople.

Heated discussions with the Paramount rep ensued, during which he absolutely confirmed that WTVT was furious and threatening the future of the big dollar "Entertainment Tonight" contract in their market. Their estimated \$10,000 per week fee was enough to motivate Paramount to "reconsider" our deal at \$750 per week.

After many discussions and threats of lawsuits, WWSB finally settled and agreed that we would discontinue the Entertainment Tonight deal prematurely as of December 31, 1986. We compromised in order to avoid a costly lawsuit. We had to replace Entertainment with "MASH" and today, in Sarasota, WTVT's "Entertainment Tonight" telecast at 7:30 pm beats our "MASH" telecast in our own Sarasota market.

WWSB's decision not to fight this battle with Paramount and WTVT was solely a financial consideration. Had the 35 mile rule not been in effect, we would never have had access to "Entertainment Tonight" in the first place and would have had no option to fight for it, in the second place. It is still a critical goal for the financial stability of WWSB to increase our ratings in the crucial 7-8pm time period.

Game Shows

Two of the hottest game show properties in syndication are not being telecast by WWSB. We're one of the few markets in America where they aren't being telecast. They are "available" to us, assuming the 35 mile rule is invoked.

At first, the syndicators of these shows were reluctant to quote us a price. They, frankly, had no interest in upsetting their Tampa market clients. I suggested they check with their attorneys regarding the 35 mile rule. They came back and quoted a high, access-only (7-8pm) price. We had wanted the properties for early fringe (4-5pm) and based these

unfavorable terms, passed. What's important here, however, is that at least we COULD have purchased the shows under their terms, which they would not have been likely to let us do without the protection of the 35 mile rule.

WWSB did purchase another game show from a different syndicator during the NATPE Convention in February. It will premiere in September 1987. This particular syndicator was already "educated" about our market situation by me and the deal proceeded without much of a problem. Even here, however, it is important to note that the show was also purchased by WXFL in Tampa and the syndicator stated that they needed to "advise" WXFL about our deal "as a courtesy."

WXFL, of all the Tampa stations, cooperates with us the most. We've arranged a co-op relationship with news stories (we give them Sarasota stories in exchange for footage of big-news Tampa stories). We both see this arrangement as an opportunity to serve our individual "local" viewers better. This has not adversely affected WXFL local news ratings, by the way. They've been on the increase in the past year.

WTVT certainly has not demonstrated cooperation, nor has WTSP or the two independent stations, WTOG and WFTS. It's my belief that they have strong motivation to press for Tampa exclusivity against Sarasota. To one degree or another these stations discourage syndicators from doing business with WWSB on competitive, successful shows. It is standard practice for every sales rep to "pitch" his show to all stations, big market and small, to get the most sales. However, since I've been at WWSB, I've only been "pitched" on shows we already own (renewal deals) or on marginally performing shows which are not sold in Tampa and will likely never be sold in Tampa. I can only remember two exceptions to this, out of an estimated thirty to forty shows of substance that have been offered. If I have an interest in those potential hit programs, I have to contact the syndicators myself and badger them to do business with me. Certain program suppliers have gone so far as to indicate that doing business with WWSB would be "injurious" to them based on feedback from their Tampa clients.

Barter Programs

In the past three to five years barter as a form of payment for syndicated programs has reached huge proportions and is a major factor now in both the cost of programs and the placement of programs. Some programs are full barter. The syndicator takes roughly half of the inventory and sells advertising time for his whole syndicated "network". The local station gets to sell the other half of the inventory. The cost to the local station is no cash; just the loss of commercial time available for local sale. Other programs are cash plus

barter. This means that the station pays cash and gives up commercial time--anywhere from one thirty-second commercial spot per half hour to as much as two minutes of time in an hour. These spots, now sold by the syndicators, represent huge amounts of additional revenue for the syndicator.

Now, not only does the cash amount "buy" the hit shows, but the placement of the shows "buy" the show. Negotiations become more complex. The syndicator is looking for the best place (i.e. strongest station with the largest audience potential) and for the best time period (again, with the largest audience potential so he can deliver the highest possible audience estimates to his advertisers and get the highest barter revenues.)

Just for reference, most "hit shows" operate on a cash plus barter basis. These include "Wheel of Fortune", "Jeopard", "Entertainment Tonight", "Oprah Winfrey", "Donahue" and many, many more.

On barter, Sarasota (market size approximately 110,000) cannot compete against Tampa (market size over one million).

Since last summer, I have tried to negotiate a deal with a major syndicator for a very big full-barter show "hit". It is number one in its time period on one of the Tampa stations. We'd like to try it in our market. My first contact with this syndication company resulted in the Sales Manager telling me point blank that they didn't want us to have the program. They only wanted Tampa to have it and didn't want to upset their client there. We pointed out that we were a separate market, more than 35 miles away, and we couldn't figure out how more audience potential in Sarasota could hurt them as syndicators.

We took the problem higher in the company. Now it's a year later, and we've finally made other arrangements for the time period we wanted their show for--more out of frustration than strategy. Suing and the price of a lawsuit for a once a week barter show doesn't make sense.

News Services

News services are not a regulated item. The 35 mile rule does not apply. However WWSB's experience in seeking access to news services illustrates the power Tampa stations exert to bar WWSB's access to programs. It should be noted that within news efforts, WWSB has been blocked by several Tampa stations from affiliating with regional news service organizations. These regional services serve as a backbone for state coverage of issues and often give regional angles on national stories. For instance, without a regional service, WWSB won't get footage of the upcoming Pope's visit to Miami unless we go to the expense

of sending our own crew and buy individual satellite services. For our small market (ADI#156) the cost of this is prohibitive. These regional news services are tailor made for small stations and, except for WWSB, I know of no small market station with local news programs in Florida that doesn't subscribe to at least one.

WTVT has blocked us from using CONUS. WTSP has blocked us from the Florida News Network. We are currently trying to coax WXFL to license us at a reasonable small market charge to their Florida Satellite Network. Unless we are successful, it is unlikely that our Sarasota local news viewers will see much of Pope's visit to Florida.

It appears that when the 35 mile rule isn't there to protect the small market (Sarasota), the big market (Tampa) stations do exercise their clout against us for their exclusive gain. This is another example of a freeze-out that we cannot remedy because of the huge costs of a major lawsuit. It does, however, directly affect our ability to serve our local viewers and compete equitably.

Program Costs

There are those who believe that the problems small market stations face in obtaining programs boil down to a question of program pricing, i.e., how much a station is willing to pay for a program. The dynamics of program purchases are much more complex than that, however. First of all, a show's price may not be just cash. It can be barter or cash plus barter. Also, the program market is very volatile.

The price of programs can be affected by numerous factors. The price goes up if there are lots of players for the program in the market...if the market has a high revenue track for the year, the quarter or the month...if the syndicator has done his homework and asks a high amount that isn't too high...if a new station is signing on the air and needs huge amounts of programs...if the show has an amazing network track such as "Cosby"...etc.

On the other hand, the price of programs goes down if there are only two stations in the market...if the program is a known poor risk...if a station has gone bankrupt...if new management has taken over a station and has a hold on any immediate buying...if the market financial picture is soft...if a competing syndicator gets to the market first and sells everything he has at low rates...etc.

The volatility of program prices is illustrated by the fact that in Miami, first run movies have been sold as high as \$92,000 per title and as low as \$60 per title. There is simply

no fixed pricing mechanism. There is only negotiation. And the value of the FCC's 35 Mile Rule is that it makes negotiation possible for the small market broadcasters.

Exclusivity

Large market stations will invariably seek to exclude smaller market stations within their service areas from obtaining top-rated programs. The dynamics of this phenomenon can be illustrated by the following scenario.

"Wheel of Fortune" is the syndication hit of last year, this year and likely next year by virtue of its enormous rating levels. If a Miami station decided to try to buy it exclusively for Miami and West Palm, the cost might work out like this, hypothetically:

Assume West Palm currently gets an 8 rating with "Wheel" and Miami gets a 15 rating. With exclusivity in Palm Beach, Miami can estimate at least a 5 rating point increase, to a 20 rating.

If a rating point in the Miami market is worth \$150, the Miami station with 5 additional points gets $\$150 \times 5 \text{ points} = \750 more per :30 commercial within "Wheel".

With 12 :30 commercials per day, Miami gets $\$750 \times 12 = \$9,000$ additional per day or (x 5 days) an additional \$45,000 per week or (x 52 weeks) an additional \$2,340,000 per year.

It is very unlikely that a West Palm station is paying more than \$2,000,000 annually, even for a hit like "Wheel of Fortune". For an easily-justified extra fee, Miami could shut the highest rated syndicated show out of West Palm. Even if the Miami station just broke even, that station would provide improved ratings for adjacent programs and total sign-on to sign-off averages.

The West Palm station's financial viability would suffer greatly on this one example, alone.

Competitive Successful Programs

I've been a successful programmer for twelve years in three markets at six stations. I've studied all the national trends. At any given time, all U.S. markets are dominated by a handful of "successful" programs. Diversity is a concept touted by program producers and television theoreticians, but rejected by the television marketplace. The "hits" get the big audiences and "diversity" gets the slim leftovers. Even major market stations with their broad revenue bases can't afford diversity. They fight over the hits. If small markets

adjacent to big markets can't at least compete for the "hits", they will crumble under the slim audience patterns of diversity. Or worse, crumble slightly slower under the program purgatory of old, very, very old reruns.

The following are my two most critical points and pertain to all small markets adjacent to big markets:

1. If Tampa can pay \$1,000 to Sarasota's \$100 (based on revenue base and market audience size) then any consideration of Sarasota competing for "hits" is moot. The competitive playing field is grotesquely unequal.
2. Even if Sarasota picks up a \$100 program, new and diverse, and it becomes a "hit", Tampa will buy it away in the second year renewal for big dollars. Sarasota couldn't motivate station loyalty from the syndicator with its low pricing and poor barter comparison to Tampa. Sarasota simply can't win for long in the diversity game, even if a win comes about.

If the FCC believes that localism is important, that serving the public with local news and local community programming and special projects is important, then revoking the only protection small markets have to preserve their individual market status, success and service is surely an error. Frankly, in the long term, it will not serve the success of the overall marketplace either. Just ask any syndication sales executive if they're willing to give up revenues they generate these days from West Palm Beach.

SURVEY OF THE FACTORS AFFECTING
PRODUCTION AND DISTRIBUTION OF NON-NETWORK PROGRAMS

Non-Network Programming Production

1. Types of Programs. In 1979 the Commission's Network Inquiry Special Staff completed an exhaustive study of television program production, acquisition and distribution.¹ The Special Staff identified the types of non-network (syndicated) programs produced as follows:

Syndicated entertainment program offerings comprise three general categories, first-run, off-network, and movies. First-run entertainment programs are produced originally for syndication and have consisted primarily of video-taped game show, musical variety programs, and interview shows. Off-network programs are those which were initially produced for and exhibited on network television and consist primarily of situation comedies, action-adventure/dramatic programs, and animated (cartoon) programs. The movies available in syndication include both theatrical and made-for-television releases. For the most part, these films also are exhibited on network television before entering the syndication market.

New Television Networks at 399.²

¹This study, entitled "An Analysis of Television Program Production, Acquisition and Distribution", can be found in New Television Networks: Entry, Jurisdiction, Ownership and Regulation Volume II, (Network Inquiry Special Staff, Federal Communications Commission, 1980)(hereinafter "New Television Networks II") at pp. 293-813. Although this 520 page report discusses the effect of FCC regulation on program production and distribution, it does not even suggest that the 35 Mile Rule has any impact on the supply of video programming.

²Examination of the June 8, 1987 issue of Broadcasting at page 56 confirms the validity of the Special Staff's conclusions. The top fifteen syndicated shows for the week

2. Types of Producers. The Special Staff noted that producers of daytime game shows are a primary source of first-run syndicated programs because they are able to produce a large number of inexpensive programs with a proven record of success.³ Another important group of producers identified in the Network Inquiry produced first-run programs primarily for syndication. The Network Inquiry noted that the three most widely syndicated programs in November, 1977 were neither off-network reruns nor variations of network daytime programs, but were first run programs available only in syndication. Another source of first-run syndicated programming is advertisers who produce and barter their own syndicated programs. In the years that have passed since issuance of New Television Networks II, program producers and syndicators have gone into the barter business themselves. They will barter a program and sell their spots in the program to advertisers through their own in-house sales team or through a

ending May 29, 1987 were Wheel of Fortune, Jeopardy, World Wrestling Federation, People's Court, Entertainment Tonight, Oprah Winfrey, New Newlywed Game, Hollywood Squares, Mama's Family, Wrestling Network, Entertainment Tonight W, Hee Haw, Star Search, Three's Company, Divorce Court and Fame.

³This ability to produce large numbers of inexpensive programs is particularly important for programming television station's access time where the common practice is to strip programs, i.e., run the same program at the same time on every weekday night. Program stripping in access time makes it easier for stations to promote their access time schedule. It also is tailored to the access time audience which includes younger children who tend to view programs habitually. Recent experimentation in Checkerboard programming for access has been widely regarded as a failure. See "Sweeps Result Unkind to Checkerboards", Broadcasting, April 13, 1987 at p. 90.

national representative.⁴

3. The producers of off-network programs exhibited through syndication are the producers of the networks' prime time series. The larger network prime time producers are also producers of theatrical and made-for-television movies. These movies generally go into syndication at some stage in their commercial life.⁵

4. Market Structure. The network inquiry special staff found that the program production industry has no obvious barriers to entry as a program supplier. Independent producers are able to rent production facilities and to hire necessary technical staff. New Television Networks II at 371. New entry into the production of prime time network programs was found to be extensive. The special staff pointed out that over seventy percent of the suppliers in the 1977/78 season were not producing for prime time in 1969/70 season. Id. at 558. Similarly, the special staff found that nearly eighty percent of the suppliers of syndicated programming in 1977 were not supplying syndicated series in 1968. Moreover, none of the top twenty suppliers of

⁴Thus programmers and syndicators are actually competing with the stations exhibiting their programs for the sale of advertising time.

⁵The stage at which a theatrical movie may be offered to television stations in syndication depends largely upon the popularity of the movie. They may be exhibited on any cable or network television prior to entering syndication. New Television Networks II observed that some movies move to syndication quite quickly while others, such as Gone with the Wind do not even appear on network television until long after their initial exhibition.